



## City of Seattle

---

### Department of Planning and Development

D. M. Sugimura, Director

### CITY OF SEATTLE ANALYSIS AND DECISION OF THE DIRECTOR OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT

**Application Number:** 3014585  
**Applicant Name:** Tom Cross  
**Address of Proposal:** 3308 21<sup>st</sup> Ave S

#### **SUMMARY OF PROPOSED ACTION**

Land Use Application to allow a 2-story, 1,234 sq. ft. footprint single family dwelling unit with attached one car garage.\*

\*During review of the project, the applicant reduced the footprint of the house to 1,234 square feet by reducing the size of the garage to hold one car.

The following approvals are required:

**Environmentally Critical Areas Exception:** To allow development in a Category 4 wetland buffer pursuant to Section 25.09.300, Seattle Municipal Code.

#### **BACKGROUND DATA**

##### Site and Vicinity

The subject property is a vacant 8,461-square foot lot. It is zoned SF 5,000 (Single Family, with a required minimum lot size of 5,000 square feet). The property is located in South Seattle and described as GENEVA HEIGHTS ADD LOT 1 TGW S 55 FT LOT 2. The parcel is L-shaped with frontage along S Horton St, 21<sup>st</sup> Ave S, and 22<sup>nd</sup> Ave S (unopened).

The site is predominately level with cover of grass and small shrubs. There is an approximately 6-foot tall embankment along the west side of the property abutting the sidewalk along 21<sup>st</sup> Ave S. A small home was formally sited in the southwest corner of the lot. This home was demolished in 2006. The site is mapped as a Category 2 Peat Settlement-prone Area as defined by SMC 25.09.020.A.5. There is wetland on the east side of the parcel that was delineated and categorized in a wetland report supplied by the applicant (*Wetland Delineation for 3308 21<sup>st</sup> Ave S, Seattle, WA 98144*, Angelo Josue, PhD, March 12<sup>th</sup>, 2012).

The Seattle Department of Planning and Development wetland specialist reviewed this report and conducted a site visit and verified the accuracy of the conclusions in the report.

The property is bordered to the south, north, east and west by developed residential parcels, also zoned SF 5000. With an area of 8,461 square feet, this lot is the largest in the immediate vicinity. Many of the surrounding parcels are below the current 5,000 square foot minimum size allowed by the zoning.

### Proposal Description

The applicant has proposed construction of a two-story single-family residence with an attached one-car garage. Due to the constraints of the subject property posed by restrictions on developing in wetlands and wetland buffers, the applicant has requested an Environmentally Critical Areas Exception. The proposed development is located in the wetland buffer area; neither the home nor the associated construction grading and would touch the wetland itself. The wetland is a Category IV and would typically require a 50-foot protective buffer. The wetland is considered degraded due to dumping of yard waste and garbage, low vegetation diversity, and a high prevalence of non-native vegetation. The applicant provided a *Wetland and Wetland Buffer Enhancement Plan* prepared by Angelo Josue, dated May 14<sup>th</sup>, 2013, to mitigate wetland impacts from the single family home construction. As described in this report, “...the enhancement plan will involve enhancing the native vegetation in the wetland and buffer including removal of non-native invasive species of vegetation.”

To reduce the direct impact to the wetland buffer, the applicant modified the original proposal by shifting the house site to the north away from the wetland and reduced the size of the garage to a one-car garage. The footprint of the structure will be 1,234 square feet; the total disturbed area to allow construction and provide a minimal yard and driveway access to the garage will be 2,500 square feet. The building coverage for the lot would be 14.6 %, well below the maximum of 35 % allowed by the zoning. Less than 30 % of the parcel will be disturbed/developed for the home and associated yard and driveway access. The remainder of the parcel consisting of wetland and wetland buffer will be enhanced by removing native vegetation and installing native plants. Following that, a maintenance and monitoring plan will be followed for five years to ensure performance goals of the mitigation plan are achieved. The enhanced area will be protected in perpetuity and separated from the developed area around the house by a durable split-rail style fence. The enhancement plan is described in detail in the provided wetland report and installation specifications are provided as three sheets (E1-3) in the set of plans submitted with the application.

### Public Comments

The public comment period that ended on March 27th, 2013. Three written comments were received.

### Environmentally Critical Areas Regulations

Seattle Municipal Code (SMC) Sections 25.09.040 and 25.09.060 establish standards that apply to all development within designated Environmentally Critical Areas (ECA), including

submittal requirements for verifying the location of all such areas. SMC Section 25.09.160 provides specific standards for all development in wetlands and their buffers on existing lots. Seattle Municipal Code (SMC) Section 25.09.300 authorizes exceptions to ECA development standards. A standard may be reduced, waived or modified only if strict application of the standard is unreasonable, and a standard may be modified only to the extent necessary to allow reasonable use of the property in light of the facts and circumstances of a particular case.

### **ANALYSIS – ENVIRONMENTALLY CRITICAL AREAS (ECA) EXCEPTION**

Seattle Municipal Code Section 25.09.300.A allows an applicant to apply for an ECA exception for modification of ECA development standards if the Director concludes that no other applicable administrative remedies in SMC Chapter 25.09 (ECA regulations) or in SMC Title 23 (Seattle Land Use Code) will provide sufficient relief.

Seattle Municipal Code Section 25.09.300.B specifies information and studies to be provided by the applicants. Documentation showing that no other applicable administrative remedy would provide sufficient relief was provided in the form of three site plans: one with the standard 50-foot buffer for Category 4 wetland; one with a reduced front yard setback, which may be permitted with an approved ECA variance pursuant to SMC 25.09.280; and one with the wetland buffer reduced to 35 feet, which can be permitted pursuant to SMC 25.09.160.D. None of these scenarios leave any viable developable area outside the of wetland buffer for development.

Technical studies to assess the potential injurious effects of the proposed development on occupiers of the site and other properties and on public resources and showing how it would protect them were provided by the applicant. The *Wetland and Wetland Buffer Enhancement Plan* prepared for this project evaluates the wetland's current condition and function, and provides a vegetation enhancement plan to offset impacts from allowing a reduced buffer. The *Subsurface Exploration and Geotechnical Engineering Report* by Battermann Geotechnical Consulting, dated June 30<sup>th</sup>, 2013, reports on the subsurface conditions and geologic hazards of the site, and provides geotechnical engineering recommendations for constructing a single-family residence on the site. The report concludes that the construction of the proposed single family residence “...will not have an adverse affect on the subject property or on adjacent properties.” The report and its conclusions were reviewed and approved by the Seattle Department of Planning and Development's staff geotechnical engineering reviewers.

Seattle Municipal Code Section 25.09.300.C states: “The Director may modify or waive an environmentally critical areas development standard and/or the yard and setback standard for front or rear yards when an applicant demonstrates by clear and convincing evidence that strict application of the development standards would not permit any reasonable use of the property and that development undertaken pursuant to the modified or waived standards would not cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.” As noted above, the applicant has demonstrated that the site is not developable if general wetland development standards applied. Implementation of the wetland and buffer enhancement plan and adherence to the recommendations of the consulting geotechnical engineer are not expected to cause significant injury to occupiers of the land, to other properties, and to public resources, or to the environment.

Seattle Municipal Code Section 25.09.300.D indicates that the relief granted by reduction, waiver, or modification of an environmental critical areas development standard or the front or rear yard shall be the minimum to allow reasonable use of the property and that preference shall be given to modifying or waiving the yard and setback standards for front or rear yards. In modifying a regulation, the Director may impose reasonable conditions that prevent or mitigate the same harm that the modified or waived regulation was intended to prevent or mitigate.

The existence a wetland and wetland buffer throughout nearly the entire property and the prohibition from building within these areas is clear and convincing evidence that strict application of the development standards would not permit any reasonable use of the property. The wetland development standards under SMC 25.09.160 would effectively prohibit construction of any residential structure on this residentially zoned parcel unless relief is provided. The applicant has proposed achieving reasonable use of the property by developing a three bedroom, two-story single-family residence with a footprint of 1,234 square feet and 1,998 square feet of living space. The applicant analyzed the building size and lot coverage of neighboring lots and demonstrated that the size and style of the proposed house is similar to that of the existing neighboring houses. It was also shown that the proposed lot coverage of just 14.6 % will be substantially less than all the neighboring houses and what the zoning allows.

In order to minimize the impact to the wetland and wetland buffer, the applicant chose a relatively compact footprint and opted for a one-car garage over the more commonly constructed two-car garage. The design also shifted the house to the north to have a front yard setback of 10 feet, rather than the standard for the zoning of 20 feet. Moving the house to the north minimizes impacts to bulk of the wetland which is in the southeast portion of the property. The applicant has also incorporated a durable split-rail style fence to separate the house and yard immediately surrounding the house from the wetland and wetland buffer that will be enhanced.

No negative impact on public resources is expected to result from the proposed development. Ground water in the area is not expected to be adversely altered through compliance with the development standards for peat settlement-prone areas (SMC 25.09.110) and compliance with the City of Seattle's Stormwater Code. Soil stability is expected to be improved by the construction and vegetation enhancement. Animal habitat is minimal on site. Available area to animals will be reduced in area, but the remaining wetland and wetland buffer will provide enhanced habitat through removal of invasive species and planting with appropriate native plants. These enhanced areas will be permanently preserved with an ECA Covenant.

The applicant has submitted a *Wetland and Wetland Buffer Enhancement Plan* which provides a plan to remediate the degraded wetland on the site. The plan contains three goals: 1) enhance the native vegetation in the wetland; 2) enhance the native vegetation in the wetland buffer; and 3) remove noxious and non-native plant species in the wetland and wetland buffer. Planting native vegetation in the wetland and wetland buffer will increase the vegetative structure and diversity of the site, improve the wildlife habitat, reduce the potential for erosion, and discourage intrusion by humans. Implementation of the wetland and buffer enhancement plan is expected to result in an increase of the functions and values over those which currently exist on the site.

**DECISION – ENVIRONMENTALLY CRITICAL AREAS EXCEPTION**

ECA Exception to allow land disturbing activity in the wetland buffer is  
**CONDITIONALLY GRANTED.**

**CONDITIONS – ECA EXCEPTION**

Prior to Issuance of a Master Use Permit

1. ECA Covenant. Provide an ECA Covenant pursuant to SMC 25.09.335B and C.  
This covenant will provide for non development and non-disturbance of the wetland and buffer in the future.

Prior to Occupancy

2. Install split rail fence per mitigation plan.
3. Implement the *Wetland and Wetland Buffer Enhancement Plan*, prepared by Angelo Josue, PhD, dated May 14<sup>th</sup>, 2013.

For the Life of the Project

4. Limit development and other disturbance on the site to that shown on the issued plans for Master Use Permit 3014585.
5. Implement the ongoing provisions of the *Wetland Buffer and Restoration and Enhancement Plan*.

Signature: \_\_\_\_\_ (signature on file) Date: October 10, 2013  
Seth Amrhein, Senior Environmental Analyst  
Department of Planning and Development

SA:bg

I:\AmrheinS\3014585\final